

# **TOWN OF DAVIE**

## **TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark Kutney, AICP, Development Services Director

**PREPARED BY:** Daniel J. Stallone, Code Compliance Official, 954-797-1121

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** 4

**TITLE OF AGENDA ITEM:** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF THE CODE COMPLIANCE LIENS IN CASE NO. 01-081 FROM \$5500.00 IN AMOUNT TO \$1698.48, AND PROVIDING AN EFFECTIVE DATE

**REPORT IN BRIEF:** The Code Compliance Division initiated a code compliance case on February 20, 2001, related to the failure of the property owner to adhere to codes related to the storage of commercial boats and boat trailers, not owned by the respondent(s) in a residential neighborhood, thereby creating a neighborhood nuisance. The respondent(s) was brought to a special magistrate hearing on March 9, 2001, so as to respond to a Notice of Violation for violations of the following town code section:

1. 12-32: Non-permitted uses are prohibited in all zoning districts. Cease all non permitted uses. It is a prohibited and a non permitted use to operate a commercial boat/ trailer storage facility in a residential zoning district.
2. 12-33 (T), New 12-33(U): The condition of this property was a neighborhood nuisance and/or eyesore and correction was directed and achieved. The Code Compliance Division received neighborhood complaints of a nuisance and annoyance at this property. The commercial boats and boat trailers transported to and stored at this property created a neighborhood nuisance and annoyance (i.e. noise & traffic).

The Town's Special Magistrate issued a Final Order on May 29, 2001 after finding that the violations were valid. Thereafter, for eleven (11) days, the violations continued and the Final Order was violated. The Special Magistrate fined the respondent two hundred and fifty dollars (\$250.00) per violation for each day of noncompliance equal to a fifty-five hundred dollar (\$5500.00) fine. The fine was recorded as a lien in the Broward County Public records.

The mitigated amount will cover the Town's expenses and the recommended mitigation guideline amount of \$1698.48 may be considered for approval by the Town Council; upon such approval, the respondent may be given forty-five (45) days to pay the mitigated amount.

**PREVIOUS ACTIONS:** Not applicable

**CONCURRENCES:** The Code Compliance Division offers the proposed mitigation amount as the result of the application of the Town Council-approved mitigation guidelines

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

If yes, expected cost: \$

Account Name:

If no, amount needed: \$

What account will funds be appropriated from:

Additional Comments:

**RECOMMENDATION(S):** The Code Compliance Division recommends the approval of the mitigation amount equal to \$1698.48 as per the mitigation schedule and guidelines.

**Attachment(s):** Resolution, Mitigation Worksheet, Mitigation Application Review Form, Town Council Code Compliance Mitigation Guidelines

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NO. 01-081 FROM \$5,500.00 IN AMOUNT TO \$1,698.48; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Armand Steven Davila & Debra Federman have requested a mitigation of a Code Compliance lien from \$5,500.00; and

WHEREAS, the Town of Davie Code Compliance Division has determined that the violation of Code Sections 12-32 & 12-33(U) were corrected; and

WHEREAS, the Town of Davie Code Compliance Division Mitigation Guideline has proscribed a mitigation amount equal to \$1,698.48; and

WHEREAS, Armand Steven Davila & Debra Federman and the Town of Davie Code Compliance Division are agreeable to the mitigation of the Code Compliance lien.

WHEREAS, the Town Council is agreeable to such mitigation of the Code Compliance lien.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the certain Code Compliance lien arising out of Case No. 01-081 in the amount of \$5,500.00 against Armand Steven Davila & Debra Federman, is hereby mitigated in amount to \$1,698.48.

SECTION 2. That this mitigated amount of \$1,698.48 be paid to the Town within 45 days of the enactment of this Resolution. Should this amount of \$1,698.48 not be paid within the specified time the lien shall revert to the original amount of \$5,500.00.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007

**TOWN OF DAVIE CODE COMPLIANCE  
MITIGATION WORKSHEET  
CASE # 01-081**

**Respondent(s):** Armand Steven Davila & Federman, Debra

**Address:** 14251 SW 29 Court

**Fine/Lien Amount:** \$5500.00

**Mitigation Recommendation:** \$1698.48  
**(as per approved mitigation guidelines)**

a) 7.5% of \$5500.00 = \$ 412.50

b) 5 % of \$5500.00  
11 days of non-compliance  
equal to 5% of lien/fine per 60 days = \$ 275.00  
of non-compliance

c) Mitigation Base Fee = \$1010.98  
(Town costs incurred by  
Code Compliance)

Total = \$1698.48

**TOWN OF DAVIE  
CODE COMPLIANCE DIVISION  
MITIGATION APPLICATION REVIEW FORM**

**SECTION 1:** (To be completed by Code Compliance Supervisor)

1. Name of Respondent(s)/Applicant(s): Armand Steven Davila and Debra Jean Federman

2. Case Number: Code Compliance Case no. 01-81

3. Total amount of Code Compliance Lien(s)/Administrative Fine(s):  
\$ 5500.00

4. Is Respondent(s)/Applicant(s) in compliance with applicable Town Code Sections?  
X Yes      No

(If the answer to Question 4 is no, do not complete Question 5, as compliance is a prerequisite to

5. Mitigation amount recommended by the Town Council approved guidelines:  
\$ 1698.48

**SECTION 2:** (To be completed by Respondent(s)/Applicant(s))

1. Please state any and all reasons why the Town should agree to mitigate the Code Compliance Lien(s)/Administrative

Fines:

We are in compliance with the  
applicable codes.

Signature: 

Date: 11/22/06

2. Please indicate the amount which you request the Code Compliance Lien(s) be mitigated to:

\$ 1698.48

**NOTE:** The Code Compliance Division will submit your request to the Town Council to either accept or deny your mitigation amount; if your request is less than the mitigation guideline amount, the Code Compliance Division shall automatically make a recommendation to deny your mitigation request. In the event you do not agree with the mitigation guideline amount as set forth in Section 1 above, the matter will be referred to a Special Magistrate who will make a recommendation to the Town Council. The decision

to grant or deny the request for mitigation will be made by the Town Council. In the event the Town approves your mitigation request, you must pay the mitigated amount to the Town of Davie within 45 days of Town Council approval or the Code Compliance Lien(s)/Administrative Fine(s) will remain in effect in the original amount.

**SECTION 3:** (To be authorized by Department Director)

The Code Compliance Division hereby submits the request made by the Respondent/Applicant, in Section 2, to mitigate the Code Compliance Lien(s)/Administrative Fine(s) in Case Number 01-81 from a total of \$ 5500.00 to the amount requested by the Respondent/Applicant which is \$ 1698.48, for consideration by the Town Council.

12-5-06

Daniel J. Stallone

Code Compliance Official

Date

12/21/06

M. H. H. H.

Department Director

Date

<u>FINE AMOUNT</u>	<u>MITIGATION GUIDELINES</u>
	<u>RECOMMENDATION</u>
Fine to \$10,000	7.5% of the amount plus an additional 5% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$10,000 - \$20,000	10.0% of the amount plus an additional 6% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$20,001 - \$30,000	12.5% of the amount plus an additional 7% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$30,001 - \$40,000	15.0% of the amount plus an additional 8% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$40,001 - \$50,000	17.5% of the amount plus an additional 9% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$50,001 - \$60,000	20.0% of the amount plus an additional 10% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$60,001 - \$70,000	22.5% of the amount plus an additional 11% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$70,001 - \$80,000	25.0% of the amount plus an additional 12% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$80,001 - \$90,000	27.5% of the amount plus an additional 13% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$90,001 - \$100,000	30.0% of the amount plus an additional 14% For each sixty (60) days of violation plus actual costs incurred by the Town.
Over \$100,000	35.0% of the amount plus an additional 15% For each sixty (60) days of violation plus actual costs incurred by the Town.

This schedule would be utilized for first time violators and repeat violators.

MITIGATION BASE FEE (COST OF CASE ADMINISTRATION AND DEVELOPMENT) SHALL BE ADDED TO THE TOTAL DERIVED FROM APPLICATION OF ABOVE GUIDELINES. THE MITIGATION BASE FEE IS BASED UPON THE EXPENSES INCURRED BY TOWN EMPLOYEES AND ALL ACCOMPANYING COSTS.  
MITIGATION BASE FEE\* \$ 1010.98

\*Subject to revision as per current staff salaries.

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